



OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

RIN 3206-AO40

General Schedule Locality Pay Areas

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: On behalf of the President's Pay Agent, the Office of Personnel Management is proposing regulations to establish Carroll County, IL, as an area of application to the Davenport-Moline, IA-IL locality pay area and Brooks County, TX, as an area of application to the Corpus Christi-Kingsville-Alice, TX, locality pay area. The proposed changes in the geographic definitions of those locality pay areas would be applicable on the first day of the first applicable pay period beginning on or after January 1, 2023, subject to issuance of final regulations.

DATES: We must receive comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number and/or Regulation Identifier Number (RIN) and title, by the following method:

- Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Joe Ratcliffe by e-mail at pay-leave-policy@opm.gov or phone at 202-936-3081.

SUPPLEMENTARY INFORMATION: Section 5304 of title 5, United States Code (U.S.C.),

authorizes locality pay for General Schedule (GS) employees with duty stations in the United States and its territories and possessions. Section 5304(f) of title 5, United States Code, authorizes the President's Pay Agent (the Secretary of Labor, the Director of the Office of Management and Budget (OMB), and the Director of the Office of Personnel Management (OPM)) to determine locality pay areas. The boundaries of locality pay areas are based on appropriate factors, which may include local labor market patterns, commuting patterns, and the practices of other employers. The Pay Agent considers the views and recommendations of the Federal Salary Council, a body composed of experts in the fields of labor relations and pay policy and representatives of Federal employee organizations. The President appoints the members of the Council, which submits annual recommendations to the Pay Agent about the administration of the locality pay program, including the geographic boundaries of locality pay areas. (The Federal Salary Council's recommendations are posted on the OPM website at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-systems/general-schedule/#url=Federal-Salary-Council>.) The establishment or modification of pay area boundaries conforms to the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553).

This proposal provides notice and requests comments on proposed regulations to implement the Pay Agent's plan to establish Carroll County, IL, as an area of application to the Davenport-Moline, IA-IL locality pay area and Brooks County, TX, as an area of application to the Corpus Christi-Kingsville-Alice, TX, locality pay area. The change to establish Carroll County, IL, as an area of application to the Davenport-Moline, IA-IL locality pay area was tentatively approved, pending appropriate rulemaking, in the December 15, 2021, report of the President's Pay Agent. (Annual Pay Agent reports on locality pay are posted on the OPM website at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-systems/general-schedule/#url=Pay-Agent-Reports>.) Also, in considering the Federal Salary Council's recommendation to make that change, the Pay Agent reviewed updated GS employment data for

other locations and found that recent increases in GS employment for Brooks County, TX, have resulted in the county now meeting the GS employment criterion for establishment as an area of application to the Corpus Christi locality pay area. More detail is provided below.

Criteria for Areas of Application

Locality pay areas consist of (1) the metropolitan statistical area or combined statistical area (MSA or CSA) comprising the basic locality pay area and, where criteria recommended by the Federal Salary Council and approved by the Pay Agent are met, (2) areas of application. Areas of application are locations that are adjacent to the basic locality pay area and meet approved criteria for inclusion in the locality pay area. Those criteria are explained below.

The Pay Agent's current criteria for evaluating locations adjacent to a basic locality pay area for possible inclusion in the locality pay area as areas of application are as follows: For adjacent CSAs and adjacent multi-county MSAs the criteria are 1,500 or more GS employees and an employment interchange rate of at least 7.5 percent. For adjacent single counties, the criteria are 400 or more GS employees and an employment interchange rate of at least 7.5 percent. The employment interchange rate is defined as the sum of the percentage of employed residents of the area under consideration who work in the basic locality pay area and the percentage of the employment in the area under consideration that is accounted for by workers who reside in the basic locality pay area. (The employment interchange rate is calculated by including all workers in assessed locations, not just Federal employees.)

The Pay Agent also has criteria for evaluating Federal facilities that cross county lines into a separate locality pay area. To be included in an adjacent locality pay area, the whole facility must have at least 500 GS employees, with the majority of those employees in the higher-paying locality pay area, or that portion of a Federal facility outside of a higher-paying locality pay area must have at least 750 GS employees, the duty stations of the majority of those employees must be within 10 miles of the separate locality pay area, and a significant number of those employees must commute to work from the higher-paying locality pay area.

Carroll County, IL

In the Federal Salary Council meeting on October 21, 2020, the Council heard testimony regarding Carroll County, IL, currently considered a “Rest of U.S.” location that is adjacent to the Davenport locality pay area. At that time, Carroll County met the employment interchange criterion but not the GS employment criterion to be included in the Davenport locality pay area as an area of application. Since that time and as noted in the Pay Agent’s December 2021 report, Carroll County now meets the GS employment criterion for establishment as an area of application to the Davenport locality pay area.

The applicable criteria for Carroll County are those applied for locations evaluated as single counties. To meet those criteria, Carroll County would need 400 or more GS employees and an employment interchange rate of 7.5 percent or more with the Davenport basic locality pay area. Carroll County meets these criteria with approximately 420 GS employees and an employment interchange rate of 18.14 percent with the Davenport basic locality pay area. Accordingly, we propose that Carroll County, IL, be established as an area of application to the Davenport locality pay area.

Brooks County, TX

In reviewing updated GS employment data, the Pay Agent has identified Brooks County as meeting the applicable criteria applied for locations evaluated as single counties. To meet these criteria, Brooks County needed both 400 or more GS employees and an employment interchange rate of 7.5 percent or more with the Corpus Christi basic locality pay area. Brooks County now meets these criteria, with approximately 420 GS employees and an interchange rate of 42.64 percent with the Corpus Christi basic locality pay area. Accordingly, we propose that Brooks County, TX, be established as an area of application to the Corpus Christi locality pay area.

Regulatory Impact Analysis

OPM has examined the impact of this rule as required by Executive Order 12866 and

Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This rule is not a “significant regulatory action,” under Executive Order 12866.

Regulatory Flexibility Act

OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities as this rule only applies to Federal agencies and employees.

Federalism

OPM has examined this rule in accordance with Executive Order 13132, Federalism, and has determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 5 CFR Part 531

Government employees, Law enforcement officers, Wages.

Stephen Hickman,
Federal Register Liaison.

Accordingly, OPM proposes to amend 5 CFR part 531 as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 continues to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Public Law 103-89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316; Subpart B also issued under 5 U.S.C. 5303(g), 5305, 5333, 5334(a) and (b), and 7701(b)(2); Subpart D also issued under 5 U.S.C. 5335 and 7701(b)(2); Subpart E also issued under 5 U.S.C. 5336; Subpart F also issued under 5 U.S.C. 5304, 5305, and 5941(a); E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682; and E.O. 13106, 63 FR 68151, 3 CFR, 1998 Comp., p. 224.

Subpart F—Locality-Based Comparability Payments

2. In § 531.603, revise paragraphs (b)(16) and (18) to read as follows:

§ 531.603 Locality pay areas.

* * * * *

(b) * * *

(16) Corpus Christi-Kingsville-Alice, TX—consisting of the Corpus Christi-Kingsville-Alice, TX CSA and also including Brooks County, TX;

(18) Davenport-Moline, IA-IL—consisting of the Davenport-Moline, IA-IL CSA and also including Carroll County, IL;

* * * * *